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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

In re AMANDA E., A Person Coming Under  
the Juvenile Court Law.

SANTA CLARA COUNTY DEPARTMENT  
OF FAMILY AND CHILDREN'S SERVICES,

H026425

Plaintiff and Respondent,

(Santa Clara County  
Super. Ct. No. JD08969)

v.

CANDIDA E.,

Defendant and Appellant.

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Candida E., mother of Amanda E., appeals from an order granting guardianship to Amanda's foster parents. Appellant contends: (1) the juvenile court's approval for Amanda's move to New York with her prospective guardians violated the Interstate Compact on the Placement of Children; (2) the juvenile court erred in limiting the presentation of evidence at the Welfare and Institutions Code section 366.26 hearing;<sup>1</sup> (3) there was insufficient evidence that granting

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless stated otherwise.

guardianship was in Amanda's best interests; and (4) the juvenile court abused its discretion in its visitation order. For the reasons stated below, we affirm.

### **I. Statement of Facts**

Appellant is the mother of Amanda E., born in September 1991. On June 6, 1997, the Department of Family and Children's Services (Department) filed a petition on behalf of Amanda pursuant to section 300, subdivision (b) [failure to protect]. The Department also filed petitions on behalf of Amanda's half-sibling, Savannah E., born in July 1996, and sibling, Stephen E., born in 1990.<sup>2</sup> The social worker's report for the jurisdictional hearing stated that there had been 13 previous referrals for general neglect and abuse. Appellant would function adequately as a parent during intervention, but would then provide inadequate care when the social worker was no longer supervising her. The report also indicated that Stephen suffered from emotional problems and displayed aggressive behavior. According to the social worker, appellant had a good relationship with Savannah and Amanda.

On June 27, 1997, the jurisdictional hearing was held. The juvenile court sustained the section 300 petition as to Amanda, and declared her a dependent of the court. The juvenile court also ordered out-of-home placement with reunification services for appellant.

At the six-month review hearing on December 29, 1997, the juvenile court ordered that reunification services be continued, including unsupervised visitation.

The social worker's report for the 12-month review, dated June 1998, recommended continuing reunification services. Appellant was participating in

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<sup>2</sup> Savannah and Stephen are not the subjects of this appeal. The petition on behalf of Savannah was filed pursuant to section 300, subdivision (b) [failure to protect]. The petition on behalf of Stephen was filed pursuant to section 300, subdivisions (b) [failure to protect], (c) [serious emotional abuse], and (d) [sexual abuse].

reunification services, but her husband was not. They were living in Modesto with a new baby Arianna. However, an addendum to the report, dated August 1998, recommended termination of reunification services, because child abuse referrals had been made regarding Arianna. Savannah was moving into a foster-adopt home and Amanda visited New York with her foster family.

On October 6, 1998, the Department filed a section 388 petition on behalf of Amanda and sought modification of the visitation order. The Department requested that visitation be supervised, once a week for two hours due to negative changes in Amanda's behavior after visits.

Hearings on the section 388 petition and the 12-month review were held over several days and concluded in February 1999. Appellant was now pregnant with her fifth child. On April 30, 1999, the juvenile court issued its written decision terminating appellant's reunification services and setting a section 366.26 hearing. The decision stated: "[E]ven when the mother is provided extensive case management services, is closely monitored and is provided with ongoing financial assistance she is only able to provide marginal care for her children. She has completed a number of parenting classes and has participated in ongoing counseling. However, both her parenting instructors and the individual counselor indicate that she does not yet understand the essential parenting concepts and how her actions have led to the situation with her children in out of home care. Even with extensive services and financial assistance she is unable to organize her life in a way that prevents evictions, utilities from being shut off, housing from being unkempt and the necessity for borrowing money from strangers and caretakers to get to visitations with the children or return them in a timely manner from visits."

The report prepared for the section 366.26 hearing recommended long-term foster care for Amanda as the permanent plan. The report stated that Amanda had been in her current foster home for approximately two years, and she was participating in weekly therapy to treat an adjustment disorder. According to the

foster mother, Amanda's mood varied widely when she experienced stress, and stressful situations could precipitate a loss of bowel and bladder control and tantrums, but much of the time Amanda was lovable and social. Amanda enjoyed her current placement, and wished to remain in this home. The foster parents had considered guardianship, but decided that the support of the Department was necessary for Amanda to remain stable in their home.

On August 24, 1999, the section 366.26 hearing was held. The juvenile court ordered long-term foster care as Amanda's permanent plan. The court also ordered supervised visitation twice per month for one hour.

In February 2000, the juvenile court conducted a status review hearing. The social worker reported that Amanda was living in the same foster home, and she wished to remain there. Amanda continued to display some oppositional behavior. Stephen remained in a group home, and Savannah was in an adoptive home. Amanda's younger half-siblings, Arianna and Elias, were placed in adoptive homes, because appellant's husband had physically abused them. Elias had multiple broken bones and Arianna was covered with bruises. Appellant was also facing criminal charges arising from this abuse.<sup>3</sup> Amanda enjoyed her visits with appellant. The juvenile court adopted the social worker's recommendations that Amanda receive a psychological evaluation to determine whether her current treatment was meeting her needs, and what could be done so that she might be able to consider a more permanent placement without being frightened.

In August 2000, the juvenile court conducted a status review hearing. The social worker reported that Amanda was devoted to her foster mother, and wanted to remain in her foster home. Amanda was also devoted to appellant and looked forward to their visits. The juvenile court adopted the social worker's recommendation that Amanda continue in long-term foster care.

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<sup>3</sup> On February 28, 2000, appellant was convicted of child endangerment.

The social worker's report for the status review hearing, dated February 2001, recommended long-term foster care and supervised visitation once a month. The report also stated that a psychologist had evaluated Amanda and concluded that she demonstrated evidence of a mood disorder that exhibited traumatic, depressive, and dissociative features. The psychologist also believed that reducing contact with appellant should be considered, because Amanda's continued contact with appellant was negatively affecting her ability to form a secure attachment with her foster family. Amanda had recently visited her brother Steven, who lived in a residential care facility. The juvenile court adopted the social worker's recommendations.

In September 2001, the juvenile court conducted the next status review hearing. The social worker reported that Amanda seemed more secure in her foster home. The foster mother was no longer concerned about Amanda's anger, dissociative behavior, or attachment issues. Amanda had also made significant progress at school. The foster parents preferred long-term foster care for Amanda, because it allowed greater access to services. The juvenile court continued this plan for Amanda.

In March 2002, the juvenile court conducted a status review hearing.<sup>4</sup> The social worker reported that the foster mother was considering guardianship for Amanda, and had discussed the issue with Amanda. Amanda was very attached to her foster family, but wanted to remain connected to appellant. The juvenile court continued the plan of long-term foster care.

The next status review hearing was scheduled for September 9, 2002. The social worker's report for this hearing recommended that the juvenile court set a section 366.26 hearing to select a new permanent plan. The report stated that

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<sup>4</sup> On March 7, 2002, the Department learned that appellant had given birth to her sixth child Alejandro. The juvenile court eventually placed Alejandro with his father and ordered visitation of one hour per month for appellant.

Amanda had been in her current foster home for five years and that her foster parents wanted to establish a legal guardianship for her. The foster mother had been recently diagnosed with cancer, was undergoing treatment, and was showing improvement. The foster father was about to retire, and the family hoped to live in New York, where other family members lived. Amanda wanted to go to New York with her foster family. Amanda visited Stephen, who was still in a residential treatment facility, about four times a year. She had not seen Savannah since the previous Christmas, and did not know her three half-siblings, Arianna, Elias, and Alejandro.

On September 9, 2002, appellant substituted in as her own counsel and requested a continuance. The juvenile court continued the hearing until September 19, 2002. On September 19, 2002, appellant filed a line-by-line response and written objections to the social worker's September 9, 2002 status review report. She also requested a contested hearing.

Following a contested status review hearing on February 20, 2003, the juvenile court set the matter for a section 366.26 hearing to determine whether a different permanent plan would be more appropriate for Amanda.

The social worker's report, dated May 20, 2003, recommended guardianship as the permanent plan. The report stated that Amanda was doing well academically and socially, and seeing a therapist regularly. In discussing her foster mother's illness, Amanda stated that she wanted to learn to become more self-sufficient instead of relying on her foster mother to care for her. Amanda was hoping for the best, but was preparing herself for the worst. According to Amanda, if appellant loved her, she would not want her to suffer and feel miserable, and would not oppose guardianship. The social worker's report noted that Amanda had lived with her foster family for almost six years, and was very attached to them.

According to the report, Amanda stated on several occasions that she wanted her foster parents to be her guardians. The foster parents had discussed guardianship with Amanda over the years, but they were unwilling to proceed unless Amanda wanted them to be her guardians. The foster mother had also reassured Amanda that if she died, her foster father and other family members would take care of her.

The report further stated that appellant and Amanda had supervised visits once a month for two hours. Other family members would also participate in these visits. The visits went well, and Amanda did not express a conflict of loyalties in being a member of two families.

Appellant filed a line-by-line response and objections to the social worker's report. She noted that she was not allowed to discuss the issue of guardianship with Amanda, but the foster parents were allowed to do so. According to appellant, the foster mother disparaged her in front of others, including Amanda. Appellant believed that Amanda had been conditioned to believe that she would never be returned to appellant, and thus she chose guardianship to avoid being placed in foster homes. Appellant also accused the Department and the foster parents of committing parental alienation against her. She believed that the foster parents were only interested in caring for children for money. Appellant was afraid that Amanda would become a runaway child in New York. Appellant urged the court to return Amanda to her care. Appellant attached to her response: visitation logs of visits with Amanda; pictures of her children; an article about parental alienation; a Mother's Day card from Amanda; letters from Amanda's extended family stating how much they missed her; and a newspaper article regarding the quality of legal representation provided to parents involved in dependency cases in Santa Clara County.

On June 3, 2003, the Department filed an ex parte application to allow Amanda to move to New York with her foster family on June 12, 2003. Appellant

filed a written objection. She noted that the foster mother was ill, Amanda had a history of reacting negatively to change, the removal provided for no closure, and assumed that the juvenile court would order guardianship.

The contested section 366.26 hearing was held on June 11, 2003 and July 7, 2003. Appellant called Laura Manning, Amanda's therapist, as a witness. Amanda's attorney invoked the psychotherapist-patient privilege on Amanda's behalf. Appellant next called her father as a witness. She sought to have him testify about Amanda's strong familial bonds to show that separation from her family would be detrimental to Amanda. The juvenile court indicated that the issue was whether a guardianship was in Amanda's best interests, and thus the grandfather's testimony would not be probative. The juvenile court also stated that the grandfather did not have information about whether Amanda would be allowed to move to New York or what would be appropriate arrangements for visitation.

Appellant called both foster parents as witnesses. Ronald R., the foster father, testified that he had four sons, adopted two daughters, remarried, and had three more daughters. He had adopted or become a guardian to 14, parented approximately 130 foster children. There were currently three foster children in the R.'s home. Generally, the foster children would remain in their home until they were 18, then go out and find their biological parents, and return a few years later to get their life together. The R.s would then pay for their education. Mr. R. also testified that his wife had uterine cancer that had metastasized in her lungs. If his wife died, his adult children would assist him in parenting Amanda.

Claire R., the foster mother, testified that she had been a foster mother for six years. She had been battling cancer since 1999. Her physicians had told her that she would be able to care for Amanda until adulthood. Mrs. R. also testified that if something should happen to her, her children would help her husband raise Amanda.



Appellant called Richard G., the uncle of two foster children in the R.'s home, to testify about statements that Mrs. R. had made to him about appellant a year earlier. The juvenile court found that the statements were not relevant.

Appellant next called Gloria B., the mother of two daughters, who were dependents of the court. Both of Ms. B.'s daughters had been in foster care with the R.s. One had returned to Ms. B. and the other still lived with the R.s. Appellant sought to question Ms. B. about statements made by Mrs. R. and statements made by Amanda. The juvenile court sustained objections to this testimony on grounds of relevancy and lay testimony regarding Amanda's wishes.

When the juvenile court realized that it would not be able to complete the trial in a single day, it focused on the Department's application to authorize Amanda's move to New York with the R.s pending an evaluation of their home under the Interstate Compact for Placement of Children (ICPC). Appellant objected to allowing Amanda to move to New York. After an off the record discussion between the court and counsel, the juvenile court stated: "It's been proposed off the record that the court sign this ex parte order and allow Amanda to go to New York with her foster parents and that the social worker make arrangements for the mother to have a visit with Amanda tomorrow morning before she goes. And then that there be, there needs to be some further discussion and a plan made for Amanda's contact with her mother pending the guardianship, and it has to be part of the guardianship if the guardianship has established how exactly we can do that. And I think something more definite than 'at the discretion of the guardians' is going to be necessary with that because I don't think that that's going to work in this case."

Appellant pointed out that Steven and Amanda were very close and it was not in their best interests for Amanda to move to New York. Amanda's counsel stated that Amanda had expressed her wishes to write letters and cards to appellant and Steven.

The juvenile court granted the Department's request, stating: "Amanda has been in the same foster home . . . for six years. I have heard nothing in the evidence that has been presented today that would lead me [to] believe, so far, that guardianship with the [R.s] is going to be inappropriate. Everything that I have before me so far would point directly toward guardianship with the [R.s] being in Amanda's best interest. [¶] I also have heard nothing today that would lead me to believe that the [R.s] are not appropriate guardians; in fact, everything I've heard so far points to the court making the finding that the [R.s] are appropriate guardians. [¶] And so I'm going to allow Amanda to travel with them to New York tomorrow and I'm going to direct the Department to come up with a plan for visitation and contact between Amanda and her mother and her brother that is appropriate, given the ages and the circumstances of everyone involved, so that I can make that a part of any guardianship order that I make, if I make it at the end of the evidence." The juvenile court also approved a supervised visit the following morning for Amanda, Steven, and appellant.

When the hearing resumed on July 7, 2003, appellant called Mr. E., Mr. G., and Ms. B. as witnesses to testify regarding an incident that occurred between Mrs. R. and Ms. B. after the last hearing. The juvenile court found their testimony not credible.

Appellant also called Marion Anderson, who had been the social worker in this case for the last four years, as a witness. Appellant asked Anderson whether she still considered Mrs. R. to be an appropriate guardian after hearing the testimony of Mr. E., Mr. G., and Ms. B. regarding the incident with Mrs. R. Anderson testified that she did, because each of these witnesses had given a different version of the same event. Anderson also testified that Mrs. R. was very supportive of appellant. It was Anderson's understanding that Amanda and appellant could write letters and share photographs through her, but she had not contacted appellant since the last court hearing about contact between appellant

and Amanda. Anderson also noted that scheduling future visits would be accomplished through the ICPC.

Anderson also testified that Amanda had told her several times that she wanted the R.s to be her guardians and that she move to New York. The R.s told Anderson that they would “raise [Amanda], no matter what, she would never have to ever leave their home.” However, they did not want to create a conflict of loyalties for Amanda, so they did not want to pursue guardianship unless Amanda wanted them to do so.

At the conclusion of the hearing, the juvenile court found that the evidence was “overwhelming” that Amanda had been appropriately cared for by the R.s and that Amanda wanted to be in a guardianship with them. The juvenile court appointed the R.s as Amanda’s guardians and ordered supervised visitation for appellant.

## **II. Discussion**

### **A. ICPC**

The ICPC is an interstate agreement that governs the “sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption . . . .” (Fam. Code, § 7901, art. 3, subd. (b).) The ICPC prohibits sending a child to another state “unless the sending agency shall comply with each and every requirement . . . governing the placement of children therein.” (Fam. Code, § 7901, art. 3, subd. (a).) The sending agency must give written notice to appropriate authorities in the receiving state (Fam. Code, § 7901, art. 3, subd. (b)), and the child may not be sent “until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.” (Fam. Code, § 7901, art. 3, subd. (d).)

Appellant contends that the juvenile court’s authorization for Amanda’s move with the R.s before the Department received approval from the appropriate

public authorities in New York violated the ICPC. The Department counters that the instant case is governed by Regulation No. 1, which applies to an intrastate placement that changes into an interstate placement when a family unit relocates. It provides, in relevant part, that “where a custodian(s) holds a current license, certificate or approval from the sending state evidencing qualification as a foster parent or other custodian, the receiving state shall give effect to such license, certificate or approval as sufficient to support a determination of qualification pursuant to Article III (d) of ICPC, unless the receiving state compact administrator has substantial evidence to the contrary.” The Department points out that the R.s are licensed foster parents in California, and thus qualify to have their license recognized in New York under this regulation. They also note that the ICPC contemplates a home study of the placement, and a home study cannot be completed until the relocating family unit moves.

However, we need not resolve the issue of whether the juvenile court violated the ICPC. A party cannot maintain an action that involves only abstract or academic questions of law. (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 642, p. 669.) Thus, an action, which was originally based on a justiciable controversy, cannot be maintained on appeal if the issues have become moot by subsequent acts or events. (*Ibid.*; see also *In re Dani R.* (2001) 89 Cal.App.4th 402, 404.) The ICPC does not apply to “[t]he sending . . . of a child into a receiving state by . . . her . . . guardian . . . .” (Fam. Code, § 7901, art. 8, subd. (a).) Thus, once the R.s became Amanda’s guardians, an ICPC approval was not required. Moreover, the Department has received the requisite approval from the relevant public authorities in New York.<sup>5</sup>

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<sup>5</sup> We have granted the Department’s request to take additional evidence on appeal of the approval for Amanda’s placement with her legal guardians in New York. (See *In re Zeth S.* (2003) 31 Cal.App.4th 396, 413.) We also order the document sealed, because it discloses confidential information.

## B. Admissibility of Evidence

Appellant next contends that she was denied due process, because she was not allowed to present relevant evidence on the issues before the court. We find no error.

The juvenile court has broad discretion to control the proceedings before it. (§ 350, subd. (a)(1); *Ingrid E v. Superior Court* (1999) 75 Cal.App.4th 51, 758.) Thus, the *Ingrid E.* court observed: “[I]t is reasonable for the court, in pursuit of its statutory duties, to ascertain the issues relevant to the hearing and make some relevancy determinations. That power should be exercised in such a manner as to make clear for all an identification of the issues and a recognition that time is not an unlimited commodity in today’s busy juvenile courts.” (*Ingrid E. v. Superior Court, supra*, 75 Cal.App.4th at p. 760.) “The due process right to present evidence is limited to relevant evidence of significant probative value to the issue before the court.” (*In re Jeanette V.* (1998) 68 Cal.App.4th 811, 817.)

“The issue of the relevance of evidence is left to the sound discretion of the trial court, and the exercise of that discretion will not be reversed absent a showing of abuse. That discretion is only abused where there is a clear showing the trial court exceeded the bounds of reason, all of the circumstances being considered.” (*People v. DeJesus* (1995) 38 Cal.App.4th 1, 32, citations omitted.)

The purpose of a permanency planning hearing is “to provide children with stable, permanent homes” (*In re Heather P.* (1989) 209 Cal.App.3d 886, 890), and “not to relitigate constantly the necessity of continuing the child’s permanent plan.” (*In re Maricela C. v. Superior Court* (1998) 66 Cal.App.4th 1138, 1145.) Here the issues were whether changing Amanda’s permanent plan to guardianship was in Amanda’s best interests and whether Amanda should be allowed to move with her foster family to New York.

Appellant first argues that the juvenile court erred in ruling that the testimony from her father that Amanda had strong ties to her biological family was

irrelevant. The social worker's report noted that Amanda's visits with her biological family went well and that she experienced no conflict of loyalties in being a member of two families. Thus, while the grandfather's testimony was somewhat relevant on the issue of Amanda's move to New York, it was cumulative. Thus, the juvenile court did not abuse its discretion in excluding this evidence.

Appellant next challenges the exclusion of evidence regarding the appropriateness of Mrs. R. as Amanda's guardian, including ignoring children formerly in her care, alienating her foster children from their birth mothers, becoming "frighteningly angry - even assaultive - over nothing," and breaching confidentiality. Evidence of Mrs. R.'s relationship to former foster children and incidents involving their birth mothers was not relevant to the issue of Mrs. R.'s relationship to Amanda. The juvenile court did admit evidence of the June 11 incident involving some of appellant's witnesses and Mrs. R. However, the juvenile court found that these witnesses were not credible. The juvenile court also properly ruled that evidence of whether Mrs. R. discussed appellant's case with another parent was irrelevant, because this evidence was not relevant as to the type of care that Mrs. R. provided to Amanda. Accordingly, the juvenile court did not abuse its discretion in excluding the proffered evidence regarding Mrs. R.

### **C. Sufficiency of Evidence**

Appellant next argues that there was insufficient evidence to support the juvenile court's finding that guardianship was in Amanda's best interests. We disagree.

Our Supreme Court has recognized that California has a compelling state interest in providing permanent homes for dependent children who have not been reunified with their biological parents. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 307.) Thus, the juvenile court focuses on the child's need for permanency, not the parent's right to custody, at the section 366.26 hearing. (*Ibid.*) Legal

guardianship is preferred over long-term foster care as a permanent plan for a dependent child. (§ 366.26, subd. (b).)

“The standard of review in juvenile dependency cases is the same as in other appeals on grounds of insufficiency of the evidence. We review the record to determine whether there is any substantial evidence, contradicted or not, which supports the court’s conclusions. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible.” (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1649, internal citations and quotation marks omitted.)

Here 12-year-old Amanda had been living with the R.s for almost six years when the Department sought to change the permanent plan of foster care to guardianship. As a result of the R.s’ care and extensive therapy, Amanda no longer displayed severe emotional and behavioral problems. Moreover, Amanda was deeply attached to the R. family and wanted the R.s to be her guardians. The R.s also supported Amanda’s attempts to maintain a positive relationship with appellant and other family members. Thus, there was substantial evidence that guardianship was in Amanda’s best interests.

Appellant contends, however, that Amanda’s desire for guardianship should have been given little weight, because the record does not disclose how the issue of guardianship was presented to her. Appellant claims that one could reasonably infer that Amanda simply did not want to abandon her foster mother when she was ill, and that this was not in Amanda’s best interests. There is no merit to this claim. First, we do not know how much weight the juvenile court gave to Amanda’s preference. Second, we must draw all inferences in favor of the juvenile court’s order, and thus, the reasonable inference was that Amanda preferred guardianship in order to feel more secure with the family that had supported and cared for her for the last six years.

Appellant also argues that the R.s put their needs above those of Amanda by moving to New York, and thus isolating Amanda from her friends, family, and the supervising agency. While the move to New York would require significant changes for Amanda, guardianship provided a more stable and permanent plan for her and the best option for her continued emotional development. Moreover, appellant's focus on the state of Mrs. R.'s health is misplaced, since she ignores the care and support that Mr. R. has provided for Amanda for the last six years. Accordingly, the juvenile court did not err in finding that it was in Amanda's best interests to remain with the R.s. despite the inevitable challenges facing her.

#### **D. Visitation**

Appellant contends that the juvenile court erred in restricting visitation between her and Amanda.<sup>6</sup>

When implementing a guardianship, "[t]he court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that visitation would be detrimental to the physical or emotional well-being of the child." (§ 366.26, subd. (c)(4)(B).) The order must include the frequency and duration of the visits. (*In re Randalynne G.* (2002) 97 Cal.App.4th 1156.) However, the juvenile court may delegate decisions to the social worker, such as the time, place, and manner of visitation. (*In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1233.)

Here the visitation order stated: "The mother is entitled to reasonable face-to-face contact consistent with the well-being of the minor. The visits are to be supervised in a therapeutic setting for a minimum of one hour when the child is in California or when the mother is in New York. The supervising social worker

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<sup>6</sup> The California Supreme Court recently noted that section 366.26, subdivision (c)(4) has been amended and presently requires that the juvenile court must make a visitation order only if the child is placed in foster care. (*In re S. B.* (2004) 32 Cal.4th 1287.)



shall have the discretion to increase the frequency and duration of visits and to permit unsupervised visits, in consultation with the minor's therapist. [¶] The minor may initiate telephone contact with the mother. The mother may submit cards and letters to the minor through the social worker. The social worker to facilitate telephone and written contact between mother and sibling with minor. The Guardians have the discretion to determine the time, place and manner of such visits."

Appellant first points out that there is no evidence that the R.s plan to return to California or that she is financially able to travel to New York on a regular basis. However, this court cannot make assumptions about either the R.s' plans or appellant's ability to travel since appellant did not raise the issue before the juvenile court.

Appellant next challenges that portion of the order requiring that the visits "be supervised in a therapeutic setting." She claims that the parties should not be left to guess what this language means. We find no ambiguity in this portion of the order. It provides that a therapist would supervise appellant's visits with Amanda.

Appellant also argues that the juvenile court erred in failing to state the frequency of the visits. We disagree. The juvenile court ordered visitation whenever Amanda is in California and appellant is in New York. Given the geographic distances between the parties, the frequency of the visits is thus dependent upon those occasions when Amanda and appellant are in the same state.

### **III. Disposition**

The order is affirmed.

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Mihara, J.

WE CONCUR:

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Bamattre-Manoukian, Acting P.J.

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McAdams, J.